RECEIVED

DEC 18 1992

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Expanded Interconnection with Local Telephone Company Facilities	)	CC Docket No. 91-141
	)	
Amendment of the Part 69 Allocation of General Support Facility Costs	)	CC Docket No. 92-222

PETITION FOR RECONSIDERATION
OF TELEPORT COMMUNICATIONS GROUP

Robert C. Atkinson
Senior Vice President
Regulatory & External Affairs
Teleport Communications Group
1 Teleport Drive, Suite 301
Staten Island, N.Y. 10311

December 18, 1992

No. of Copies rec'd 0+5
List A B C D E

SUMMARY

The Commission's Expanded Interconnection Order represents a noteworthy step in the development of competition. This order creates the potential for increased competition for customers who are unlikely to be directly served by CAP facilities. While CAPs can obviously serve large users in major metropolitan areas via their own networks, the Expanded Interconnection Order raises the promise that the benefits of competition can be brought to smaller users in metropolitan areas, and large and small users alike in geographical areas where extensive CAP networks are unlikely. The Commission's policies, properly implemented, can help build the fiber infrastructure essential to increased American competitiveness.

The Expanded Interconnection Order suffers, however, from several flaws that will cripple the Commission, and the CAP industry, in bringing the benefits of competition to these under-served segments of the market. To correct these shortcomings, several aspects of the Expanded Interconnection Order must be revised for the Commission's policy to be successful:

- The Commission must eliminate its ill-advised decision to prohibit ratcheting, which was made without notice and as a consequence relied on false assumptions propounded by the LECs;
- The Commission must expand its proposed "fresh look" policy, which in fact does virtually nothing to expand customer choice;
- The Commission must eliminate its proposed expansion of LEC pricing flexibility, which presumes a degree of competitiveness impossible under the ratcheting and fresh look policies, and achievable only in limited market segments even if those policies are changed;
- The Commission must require that virtual collocation installation, maintenance and repair be performed under CAP standards, or otherwise the LECs will define the essential character of CAP services; and
- The Commission must order expanded interconnection for DS0 services, so that the numerous Special Access customers for those services do not become competitive "have nots."

TABLE OF CONTENTS

RECEIVED

DEC 18 1992

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Expanded Interconnection with Local Telephone Company Facilities	)	CC Docket No. 91-141
	)	
Amendment of the Part 69 Allocation of General Support Facility Costs	)	CC Docket No. 92-222

PETITION FOR RECONSIDERATION

Teleport Communications Group ("TCG") requests that the Commission reconsider and modify its October 19, 1992 decision in the above captioned matter.[1]

I. INTRODUCTION.

TCG is seeking reconsideration of three important, and inter-related, elements of the Expanded Interconnection Order. Reconsideration is necessary because the potential for competition under the Expanded Interconnection Order is not as great as the FCC intended, while the pricing flexibility it proposes to give the LECs is far more than is necessary or

---

1. Expanded Interconnection with Local Telephone Company Facilities and Amendment of the Part 69 Allocation of General Support Facility Costs, CC Docket Nos. 91-141 and 92-222, Report and Order and Notice of Proposed Rulemaking (released October 19, 1992) ("Order").

appropriate. To correct this imbalance, TCG recommends that the Commission modify its Expanded Interconnection Order in several respects.

First, TCG is seeking complete reversal of the Commission's ill-advised decision to prohibit ratcheting, a decision made without adequate notice and based on plainly incorrect assumptions about the effect of this "line of business" restriction on CAPs and LECs.

Second, TCG is seeking expansion of the Commission's proposed "fresh look" policy, which in fact does virtually nothing to expand customer choice.

Third, TCG asks the Commission to reconsider its proposed pricing flexibility for the LECs, which presumes a degree of competitiveness which is flatly impossible under the Commission's ratcheting and fresh look policies, and achievable only in limited market segments even if those policies are changed. For additional pricing flexibility to be extended to the LECs, it must be rationally related to the modest degree of competition created by the Commission's change in policy.

Finally, TCG suggests that installation, maintenance and repair for virtual collocation must be performed under CAP standards or otherwise the LECs will define the essential character of CAP services, and that expanded interconnection be provided for DS0 services, so that those Special Access customers do not become competitive "have nots."

II. THE COMMISSION MUST ELIMINATE ITS PROHIBITION ON RATCHETING.

The Expanded Interconnection Order prohibits the "ratcheting" of switched and special access services in collocation spaces.[2] This "line of business" restriction on CAPs was arrived at without adequate notice or due process, and is arbitrary, capricious, and devoid of factual or legal foundation. This decision will seriously -- if not fatally -- undermine the Commission's entire Special Access expanded interconnection policy. This policy denies competitors the necessary economies of scale and scope that are necessary for CAPs to be effective competitors in the Special Access market. The ratcheting ban denies CAPs an opportunity to make joint use of their networks and interconnection arrangements to serve the total access needs of their customers. If the Commission declines to reconsider and reverse this decision, it must eliminate any pricing flexibility for the LECs because its Expanded Interconnection Order will have failed to create any effective competition whatsoever.

The Expanded Interconnection Order admits that no notice was given of the possibility that such a line of business restriction would be imposed on the use of collocation spaces.[3] As a consequence, TCG, as well as many

---

2. Expanded Interconnection Order at ¶¶ 105-109.

3. Expanded Interconnection Order at ¶ 105.

other interested and affected parties, provided no comments to the Commission on this important issue. The Expanded Interconnection Order, by denying parties such as TCG due process, has left the Commission to rely on obviously flawed information and recommendations presented by the LECs.[4]

One result of this lack of notice and comment is that it is not even apparent what the Commission intended to prohibit. The Order defines ratcheting as "carrying switched access traffic over interconnected special access circuits."[5] The term "ratcheting" refers to the method used to adjust the price of the Special Access circuit to reflect its simultaneous use for switched services.[6] However, at least

---

4. In particular, TCG does not believe that Pacific Bell's claim that only .47% of circuits are ratcheted presents an accurate picture. Expanded Interconnection Order at n. 252. In TCG's experience, a substantial portion of the DS1 and DS3 circuits used by interexchange carriers to connect to LEC networks -- certainly well in excess of 10% -- are ratcheted. For certain carriers, the proportion rises to as high as 70%, so that this ratcheting limitation effectively denies those companies the benefits of expanded interconnection. TCG also expects that the proportion of ratcheted circuits will increase substantially as carriers modify their networks to prepare for restructured local transport rates, since the flat rate elements of those charges will create strong incentives for carriers to combine traffic in order to minimize circuit requirements. Finally, the Commission found that it should not bar LEC ratcheting because of the benefits that customers receive. See Expanded Interconnection Order at ¶ 109. That finding is inconsistent with Pacific's data, which would indicate that customers do not benefit to any material degree from ratcheting.

5. Order, ¶ 105 (emphasis supplied).

6. Expanded Interconnection Order at n. 246.

one LEC -- NYNEX -- has interpreted this language to refer to the collocation space itself, rather than the circuit, and on this pretense has denied essential interconnections to TCG, in violation of pre-existing contractual obligations. The interconnections requested by TCG were to be 100% dedicated to switched access, and thus did not involve "ratcheting" and did not fall into the category of services covered by the Order. In order to resolve this issue, on November 25, 1992, TCG filed a "Petition for Declaratory Ruling, or, Alternatively, Petition for Waiver." While TCG has requested emergency action from the Commission to provide these essential interconnections in the interim, the appropriate long term response is to eliminate this line of business restriction through reconsideration.

The factual foundation for the ratcheting is fundamentally flawed, and this would have been revealed if there had been adequate notice. The Expanded Interconnection Order states that allowing ratcheting "forces the LEC to face the potential of losing significant amounts of revenue before transport restructuring occurs."[7] There is, however, no factual foundation for this assumption -- and the LECs who promoted this position to the Commission must surely have known it to be false.

7. Expanded Interconnection Order at ¶ 109.

LECs do not face the prospect of losing significant amounts of revenue. In fact, LECs hardly face a risk of losing any revenues at all. Between 77% and 95% of LEC transport revenues on a typical switched transport facility are entirely unaffected by competition. The LEC is guaranteed these revenues whether it provides the local transport or not. These guaranteed revenues are collected in a non-distance sensitive local transport termination ("zero mile") charge. See Table 1.[8] This termination charge is paid on all switched access calls -- even those delivered over CAP networks via "ratcheting" arrangements to collocation spaces.[9] Because LECs have such substantial guaranteed revenues, there is no factual foundation for the Commission's conclusion that "substantial" LEC revenues would be lost.[10]

---

8. Table 1 compares the local transport termination revenues with the mileage sensitive portion, for a typical ten mile DS1 facility. For example, NYNEX will receive $3,548.67 in termination revenues, while only $224.64 in revenues are in the mileage sensitive portion that is subject to some modest competition. In the case of NYNEX, therefore, 95% of their revenues on a typical circuit are guaranteed, even where ratcheting is allowed in a collocation space.

9. This provides the LEC with an enormous competitive advantage. TCG must pay NYNEX $3,548.67 in termination charges to obtain switched access services in a collocation space -- even though the actual monthly cost of the cross connection facility used to deliver that service to TCG is only $3.51. TCG is thus forced to pay NYNEX a $3,543.16 subsidy on each DS1, which allows NYNEX to charge lower prices in the competitive portions of its network.

10. Additionally, prohibiting ratcheting will not prevent the LEC from competing for local transport. The Expanded Interconnection Order does not prohibit a CAP from building small node locations near central offices -- indeed

TABLE 1

CURRENT LEC SWITCHED TRANSPORT RATES
PROVIDE SUBSTANTIAL GUARANTEED REVENUES
AND DO NOT JUSTIFY A BAN ON RATCHETING

COMPANY	CURRENT TERMINATION CHARGE (ZERO MILE)	CURRENT MILEAGE CHARGE (10 MILES)	PERCENT OF REVENUES IN TERMINATION CHARGE
AMERITECH	$2,102.76	$345.60	85.9%
BELL ATLANTIC	$1,922.40	$ 92.88	95.4%
BELL SOUTH	$1,391.04	$209.52	86.9%
NYNEX	$3,540.67	$224.64	94.0%
PACIFIC BELL	$1,572.48	$168.48	90.3%
SOUTHWESTERN BELL	$1,382.40	$299.16	82.2%
US WEST	$2,645.35	$498.53	84.1%
GTE - CALIFORNIA	$ 411.16	$121.82	77.1%
GTE - FLORIDA	$ 429.02	$ 45.79	90.4%

Notes:

This Table compares the portion of LEC switched access transport revenues that are associated with a "zero mile" circuit (or termination charge) with the portion of revenues that are associated with the transport element, assuming ten miles of transport. All calculations assume a DS1 facility loaded at 9000 minutes of use per trunk per month, with 100%

The Expanded Interconnection Order also expresses a concern that the LECs should not be subjected to competition for switched local transport before restructured rates are put in place.[11] The current rates, however, place the LECs in just as good -- or even better -- a competitive position than will be the case under the restructured rates. Under the Commission's proposed local transport rate structure, the Interconnection Charge will represent roughly 80% of total local transport recurring revenues, and would be received by the LECs even where a competitor provides the local transport service.[12] The current termination charge, however, ranges

---

it all but forces them to do so. Those small nodes can be located within the "zero mile" zone of that central office, so that the CAP will pay precisely the same switched access charges from the node as it would pay if it could use its collocation spaces in the central office. As discussed hereinafter, forcing CAPs to construct such meaningless nodes is, however, merely wasteful of CAP and LEC resources, and advances no legitimate public policy objectives. The Commission's prohibition, therefore, is not rationally related to providing meaningful protection for LEC local transport revenues, even assuming that such protection was warranted.

11. Expanded Interconnection Order at ¶ 109.

12. See, e.g., Southwestern Bell ex parte, August 11, 1992 (70% to 77%); Ameritech ex parte, August 10, 1992 (83%). The Interconnection Charge is a per-minute termination charge that would be assessed on all switched access traffic under the Commission's proposed restructured Local Transport rates. The Interconnection Charge will be applied in essentially the same manner as today's local transport termination charge, and will act as a guaranteed source of transport revenues under the restructured rates. The Interconnection Charge is the only local transport element (other than a cross connection charge) that is expected to be applied for switched access expanded interconnection arrangements. TCG has opposed the Interconnection Charge as an improper subsidy.

from 77% to 95% of the revenues on a typical ten mile transport facility, equalling or exceeding the LEC revenues that would be received under the restructured rates where a CAP provides local transport.[13] Because the local transport termination charges under the current rates provide essentially the same amount of guaranteed revenues as will be produced under the restructured rates, there is no basis to impose a line of business restriction on CAPs.

The Commission also concluded that it must prohibit ratcheting because it would force the "LEC per minute charge to compete against the CAPS' flat rate charges." The only portions of the LECs' per minute charges that would compete with CAP flat rate charges are the 5% to 13% of revenues that are in the mileage sensitive portion of local transport -- since the 77% to 95% of the revenues collected from the termination charge must be paid even where a CAP carries the traffic. The mileage sensitive portion of the LECs' current local transport rates provide the LECs with, in most cases, a much lower priced product than they will be offering under restructured rates. Analysis of the mileage sensitive portion of LEC local transport charges demonstrates that these rates

---

13. See Table 1.

are typically much lower -- in one case, 91% lower -- than the LECs' flat rate DS1 charges. See Table 2.[14]

Not only is there no factual basis for the Commission's conclusion that the LEC mileage sensitive local transport rates cannot fairly be subjected to competition, but its decision is arbitrary and unreasonable. In its Expanded Interconnection Order, the Commission has decided to subject the LEC's flat rate DS1 charges to increased competition. As shown in Table 2, however, these LEC flat rate charges are typically much higher than the mileage sensitive portion of their switched access traffic, where no competition is to be allowed. For example, the Commission is subjecting Bell Atlantic's $493.65 DS1 rates to competition, but prohibiting competition for its equivalent $92.88 local transport rate. There is no logic in the Commission's decision to subject the LECs' higher DS1 Special Access rates to competition but to protect the equivalent but lower priced local transport rates from competition.

Prohibiting ratcheting will also lead to inefficient use of CAP and LEC facilities. LECs will be forced to construct transmission facilities to new -- and unnecessary --

---

14. Table 2 compares the mileage sensitive portion of LEC local transport charges with the equivalent DS1 service. For example, GTE Florida's month to month rate for a Special Access DS1 is $528.00, while it charges only $45.79 (or 92% less) in switched access local transport rates for the equivalent of a ten mile DS1. Only US West's local transport rates are higher than its Special Access DS1 rates, but only by 9%.

TABLE 2

CURRENT LEC SWITCHED ACCESS TRANSPORT RATES
ARE TYPICALLY MUCH LESS THAN THEIR SPECIAL ACCESS RATES
AND DO NOT IMPEDE LECs IN COMPETING WITH CAPS

COMPANY	SPECIAL ACCESS CHARGE (10 MILES)	EQUIVALENT SWITCHED TRANSPORT CHARGE	SWITCHED RATE AS PERCENT OF SPECIAL
AMERITECH	$489.94	$345.60	70.5%
BELL ATLANTIC	$493.65	$ 92.88	18.8%
BELL SOUTH	$527.90	$209.52	40.0%
NYNEX	$584.07	$224.64	38.5%
PACIFIC BELL	$477.17	$168.48	35.3%
SOUTHWESTERN BELL	$461.19	$299.16	64.9%
US WEST	$456.20	$498.53	109%
GTE - CALIFORNIA	$528.00	$121.82	23.0%
GTE - FLORIDA	$528.00	$ 45.79	08.7%

Notes:

This Table compares the month to month rates for a ten mile DS1 Special Access service (channel termination plus ten miles of channel mileage) with the equivalent transport cost for a Switched Access service. All calculations assume that the switched access service uses a DS1 facility loaded at 9000 minutes of use per trunk per month, with 100% utilization (24 trunks per DS1).

CAP premises that will probably be established across the street from the very central offices in which the CAPs have established expanded interconnection arrangements. The CAPs will likely simply abandon those facilities once switched access collocation becomes available, since they will no longer serve any purpose. CAPs will be forced to expend funds to construct those additional and unnecessary premises across from LEC central offices in order to receive interstate switched access services. LECs will receive precisely the same amount of revenues in both cases, except that under the Commission's prohibition they will have to invest additional monies to establish connections to these new POP locations. The resulting waste of the resources of both CAPs and LECs could not have been intended by a Commission which is charged with encouraging the development of a "rapid, efficient, Nation-wide and world-wide" telecommunications network.

TCG needs to be able to offer a full range of services to its customers. It does not view the switched access market as providing a particularly attractive business opportunity at this time -- the LECs have placed virtually all the revenues in their zero mile charge, which TCG must pay in order to terminate any traffic into the network.[15]

15. TCG would have to pay between $411.16 and $3,540.67, depending on the LEC, in order to terminate an equivalent ten mile DS1 in switched access traffic from an expanded interconnection arrangement -- even though the interim expanded interconnection cross connection charge for a DS1 is only $3.51. TCG is able to compete for only $45.79 to $498.53

Additionally, the LECs have created distance sensitive rates that may well not cover their actual costs, and are in any event substantially less than their Special Access rates.[16] These rates do not provide much of a competitive opportunity for TCG. TCG must, however, be able to offer its customers both switched and special access services, since that is what their businesses demand, and that is what the LEC is able to offer.

Moreover, TCG needs to be able to carry switched access traffic in order to obtain the economies of scale and scope that result from carrying such traffic. The ratcheting requirement prevents this. This prohibition on ratcheting thus works as a substantial impediment to the fair development of Special Access competition. The Commission must reverse its ratcheting decision, or it must delay any LEC pricing flexibility after expanded interconnection for switched access services becomes available.

---

in mileage revenues for that equivalent ten mile DS1, far less than the termination charges imposed by the LECs. <u>See</u> Table 1.

16. Because the LECs have not faced any effective competition for switched access, and because of the substantial pricing flexibility they enjoy under price caps, the LECs have been able to implement these potentially anticompetitive pricing arrangements.

III. THE COMMISSION SHOULD MODIFY ITS FRESH LOOK POLICIES.

The Expanded Interconnection Order proposes to offer a "fresh look" opportunity to allow customers of long term DS1 and DS3 arrangements to elect to use the services of a competitor.[17] In actuality, the Commission's policy will not provide customers with any meaningful choice -- indeed, in many cases the "fresh look" offered by the Commission is no better than the ordinary termination liabilities already imposed by the LEC. The Commission must expand its fresh look policies in order to have the positive market effects it found to be in the public interest in the order.

First, virtually all LECs apply termination liabilities that are equal to -- or even less than -- the termination liability terms specified in the Commission's Order. Accordingly, the Expanded Interconnection Order does not provide any additional opportunity for customers to exit these long term arrangements, even though the Commission determined that the public interest required such an opportunity.[18]

Second, the Commission's decision to permit the imposition of <u>any</u> termination liability on these fresh look

---

17. Expanded Interconnection Order at ¶ 202.

18. <u>Id</u>.

contracts is arbitrary and capricious. In the only two other cases in which it ordered fresh look, the Commission did not allow _any_ termination liability.[19] Applying termination liabilities of any kind acts as a unreasonable deterrent to freedom of choice. The Commission provided no reasonable basis to apply termination liabilities in this similar situation, and thus its departure from prior practice is arbitrary and capricious.

Third, many of these long term DS1 and DS3 arrangements are used for both switched and special access services. Because of the ratcheting limitation, CAPs are unable to address those long term arrangements, and thus for those circuits the "fresh look" is useless. Even were the ratcheting limitation lifted, the LECs' excessive nonrecurring charges for switched access services -- over $150,000 for a single DS3 in NYNEX, for example -- preclude CAPs from capturing that traffic. The fresh look opportunity will, however, expire for all such ratcheted circuits even if CAPs do not have a reasonable opportunity to meet those customer needs. At a minimum, the Commission should open up a second fresh look opportunity for those services when expanded

---

19. _See_ Competition in the Interstate Interexchange Marketplace, 7 FCC Rcd 2677, 2681 (1992) (allowing AT&T customers to terminate service "without termination liability"); Amendment of the Commission's Rules Relative to Allocation of the 849-851/894-896 Mhz Bands, 6 FCC Rcd 4582, 4583-4 (1991)(finding it "contrary to the public interest ... to require airlines to pay premature contract-termination penalties").

interconnection for switched access services becomes available.

Fourth, the Expanded Interconnection Order only offers fresh look for services with terms "in excess of three years." Because virtually all LECs offer term limits of three and five years -- with nothing in between -- this limitation in essence restricts fresh look to contracts of five years or more. A large number of DS3 term arrangements are three years in length -- for example, in New York roughly 75% of the term DS3 arrangements are three years. Accordingly, the effective limitation to five year contracts and above fences off 75% of the term arrangements in New York from fresh look.

Finally, the ninety day limit on fresh look requires clarification. That amount of time is simply insufficient for all the customers at a major central office to switch substantial amounts of high capacity service -- it puts excessive demands on LEC, IXC and CAP resources. A simple solution would be to clarify that fresh look is available so long as customers provide notice of their intent to terminate within ninety days, allowing the LEC, IXC and CAP to work cooperatively to effectuate the actual transfer on a schedule that meets their business capabilities and requirements.

IV. THE COMMISSION MUST REVERSE ITS DECISION TO PROVIDE ADDITIONAL PRICING FLEXIBILITY TO THE LECs.

The Commission proposes to provide the LECs with substantially increased pricing flexibility, on the premise that the LECs will face substantially increased competition.[20] In fact, however, the FCC's Expanded Interconnection Order does not open up much of the Special Access market to increased competition. The only market for which the Expanded Interconnection Order increases competition is for connections from an interexchange carrier ("IXC") point of presence ("POP") to the serving wire center ("SWC"). Moreover, all circuits which competitive carriers can provide as a result of this order must use the LEC network for one end of the circuit, since all circuits must interconnect to the LEC network at the central office. Finally, the Commission's line of business restriction, barring the use of expanded interconnection facilities for switched access, acts as a substantial competitive detriment.

LECs already have substantial, practical advantages in competing for traffic between IXC POPs and the local SWC. These IXC POP to SWC connections use high capacity DS1 and DS3 services usually provisioned over fiber optic facilities, where the LECs have already achieved substantial pricing flexibility. LECs offer large volume and term discounts on

---

20. Expanded Interconnection Order at ¶ 172.

DS3 services.[21] Multiple DS3 arrangements are primarily, if not exclusively, used in POP to SWC arrangements, and so these DS3 volume discounts are already targeted at the IXC POP to SWC market. The LECs' term discounts on DS1 and DS3 services also allow LECs to target the POP to SWC market, because IXCs generally have long term commitments to their POP locations and predictable demand levels, making long term commitment more feasible. The LECs have the practical benefits of deaveraged rates already, and accordingly more pricing flexibility is not necessary or appropriate.[22]

The Commission's proposal to provide immediate increased pricing flexibility for Special Access DS1 and DS3 facilities, including the "low density" circuits from customer premises to the LEC, is in contrast to its proposal with respect to additional pricing flexibility for switched access services. The Commission is not proposing to provide additional pricing flexibility for the switched access equivalent of Special Access customer loops -- local switching and carrier common line service elements -- when it implements expanded interconnection for switched access local transport. It restricted its proposed additional pricing flexibility for

---

21. See Expanded Interconnection Order at ¶ 200 (discounts for DS3 service of up to 70% are offered).

22. The National Association of Regulatory Utility Commissioners ("NARUC") recently passed a resolution opposing rate deaveraging. See Resolution No. 2, November 1992 NARUC Meeting.

switched access to Local Transport -- the only portion of the switched access market that is to be actually opened up to additional competition as a result of the Commission's proposed expanded interconnection policy for switched local transport. The switched access local transport market is a direct analog of the IXC POP to SWC market for Special Access that will experience increased competition under Special Access expanded interconnection. In the case of Special Access, however, the Commission is providing pricing flexibility for all portions of the DS1 and DS3 marketplace, rather than only the POP to SWC market where competition is possible. The Commission's proposal to provide additional pricing flexibility for Special Access services is, therefore, arbitrary and capricious.

V. THE COMMISSION MUST MODIFY ITS DECISION TO ENSURE THAT EXPANDED INTERCONNECTION CAN BE EFFECTIVE.

A. Standards for Virtual Collocation Must Be Strengthened.

The Commission's proposed standard for virtual collocation is inadequate. The Commission allowed the LECs to install, repair and maintain equipment to meet the LEC's standards rather than the interconnector's standards.[23] The

---

23. Expanded Interconnection Order at n. 103. LEC installation, maintenance and repair "standards" may not in fact represent LEC business practices. For example, a standard installation or repair interval may be exceeded routinely by the LEC in the vast majority of cases, and yet still remain the nominal standard. Indeed, pressure from CAPs

Commission's requirement, however, allows the LEC to control the essential character of the CAP's service. This places the CAP at an unfair competitive disadvantage. In a similar context, the New York Public Service Commission stated that virtual collocation must be "technically and economically comparable to actual collocation."[24] This ensures that the form of collocation does not affect the characteristics of the interconnector's services.[25] Unless the Commission allows the CAP to define the service standards for virtual collocation, it will not create a level competitive playing field, and this will make it even more essential that the CAP can insist on actual collocation, so that it can control the quality and nature of the services it delivers.

---

has forced the LECs to improve their actual performance in these areas, while the nominal standards may not have been changed to reflect this progress. This will make it difficult to ensure that CAPs receive proper, non-discriminatory services.

24. See Proceeding on Motion of the Commission to Review Regulatory Policies for Segments of the Telecommunications Industry Subject to Competition, Case 29469, Opinion No. 89-12, pp. 26-27 (issued May 16, 1989).

25. TCG's experience is that this standard is easy to administer, since the burden is placed on the interconnector to provide objective operational criteria against which the LEC's performance can be measured.

B. Interconnection at a DS0 level is Required for Effective Competition.

The Expanded Interconnection Order only requires that interconnection at a DS1 and DS3 level be provided. The Commission should reconsider this holding, and extend the benefits of collocation to DS0 customers.[26]

The restriction of collocation to DS1 and DS3 facilities denies the benefits of collocation to the vast number of customers who currently use lower speed Special Access facilities at less than DS1 capacity. The only way for a CAP to serve such customers under a collocation arrangement would be to purchase LEC multiplexing services and individual DS0 end links. This makes the CAP a captive of the LEC's multiplexing prices and service quality, while at the same time eliminating any competitive check on the reasonableness of those multiplexing prices.[27]

From the standpoint of serving their DS0 customers, CAPs cannot provide the flexibility, speed of provisioning, and control over service quality that their customers require unless they can provide the multiplexing service from their own facilities.[28] In order to ensure that these smaller

---

26. A DS0 is a 64 kbps channel, either data or voice.

27. Many current LEC multiplexing rates appear to be priced at many times their actual cost.

28. CAPs would, therefore, need to obtain DS0-level cross connection facilities. These can, however, be provided on a bulk basis, in units of 24 circuits. CAPs would be able